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d/b/a The Cosmopolitan of Las Vegas

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

SAM MARALAN, an individual,

Plaintiff,

vs.

NEVADA PROPERTY 1, LLC, a Nevada
limited liability company d/b/a THE
COSMOPOLITAN OF LAS VEGAS; and
DOES 1 through 50 inclusive,

Defendants

Case No.: 2:21-cv-02220-CDS-VCF

**STIPULATION AND ORDER TO
PROTECT CONFIDENTIAL
MATERIALS AND INFORMATION**

IT IS HEREBY STIPULATED AND AGREED, by the undersigned attorneys for the respective parties, that with regard to material disclosed in the course of the above-captioned lawsuit ("Lawsuit") which constitute or contain trade secrets or other confidential research, development, or commercial information of the parties ("Confidential Material"), the following procedures shall govern:

1. This Order is meant to encompass all forms of disclosure which may contain Confidential Material, including any document, pleading, motion, exhibit, declaration, affidavit, deposition transcript, inspection and all other electronic and tangible items.

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1 2. The parties may designate any Confidential Material produced or filed in this Lawsuit
2 as confidential and subject to the terms of this Order by marking such materials “Confidential.” If
3 any material has multiple pages, this designation need only be placed on the first page of such
4 material. Any material designated as “Confidential” shall not be disclosed to any person or entity,
5 except to the parties, counsel for the respective parties, and expert witnesses assisting counsel in
6 this Lawsuit.

7 3. Any material designated as confidential pursuant to paragraph 2 above shall be used
8 solely for the purposes of this Lawsuit and for no other purpose.

9 4. Prior to disclosure of any Confidential Material, each person to whom disclosure is to
10 be made shall execute a written “Confidentiality Agreement” (in the form attached as Ex. A hereto)
11 consenting to be bound by the terms of this Order. The parties, counsel for the respective parties
12 (including legal assistants and other personnel) are deemed to be bound by this Order and are not
13 required to execute a Confidentiality Agreement.

14 5. Only counsel of record in this Lawsuit shall be permitted to disseminate Confidential
15 Material. Upon dissemination of any Confidential Material, each non-designating counsel of record
16 in this Lawsuit shall maintain a written record as to: (1) the identity of any person given Confidential
17 Material, and (2) the identity of the Confidential Material so disseminated (such as by “Bates stamp”
18 number). Such record shall be made available to the designating party upon request.

19 6. If additional persons become parties to this Lawsuit, they shall not have access to any
20 Confidential Material until they execute and file with the Court their written agreement to be bound
21 by the terms of this Order.

22 7. In the event that any question is asked at a deposition that calls for the disclosure of
23 Confidential Material, the witness shall answer such question (unless otherwise instructed not to do
24 so on grounds of privilege) provided that the only persons in attendance at the deposition are persons
25 who are qualified to receive such information pursuant to this Order. Deposition testimony may be
26 designated as confidential following the testimony having been given provided that: (1) such
27 testimony is identified and designated on the record at the deposition, or (2) non-designating counsel
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1 is notified of the designation in writing within thirty days after receipt by the designating party of
2 the respective deposition transcript. All deposition transcripts in their entirety shall be treated in the
3 interim as “Confidential” pursuant to paragraph 2 above. When Confidential Material is
4 incorporated in a deposition transcript, the party designating such information confidential shall
5 make arrangements with the court reporter not to disclose any information except in accordance
6 with the terms of this Order.

7 8. If a deponent refuses to execute a Confidentiality Agreement, disclosure of
8 Confidential Material during the deposition shall not constitute a waiver of confidentiality. Under
9 such circumstances, the witness shall sign the original deposition transcript in the presence of the
10 court reporter and no copy of the transcript or exhibits shall be given to the deponent.

11 9. If a party wishes to attach Confidential Material to a non-dispositive motion or other
12 filing (excluding dispositive motions) with the Court, then that party will notify the designating
13 party of its intent to attach the Confidential Material to the filing in writing at least ten (10) days
14 before filing. If the designating party believes that the release of the Confidential Material is adverse
15 to the terms of this stipulation, then the non-designating party will bring a motion to seal the non-
16 dispositive motion or other filing.

17 10. If a party wishes to attach Confidential Material to a dispositive motion, then that
18 party will notify the designating party of its intent to attach the Confidential Material to the
19 dispositive motion, in writing, at least ten (10) days before filing. The designating party shall then
20 file a motion with the Court to seal the document, setting forth a compelling reason as established
21 by the Ninth Circuit Court of Appeals in *Kamakan v. City and County of Honolulu*, 447 F.3d 1172
22 (9th Cir. 2006).

23 11. If a party wishes to file any Confidential Material under seal, the party must comply
24 with the requirements of Local Rule IA 10-5 and the Ninth Circuit Court of Appeals’ decision in
25 *Kamakan v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006).

26 12. If a non-designating party is subpoenaed or ordered to produce Confidential Material
27 by another court or administrative agency, such party shall promptly notify the designating party of
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1 the pending subpoena or order and shall not produce any Confidential Material until the designating
2 party has had reasonable time to object or otherwise take appropriate steps to protect such
3 Confidential Material.

4 13. If a party believes that any Confidential Material does not contain confidential
5 information, it may contest the applicability of this Order to such information by notifying the
6 designating party's counsel in writing and identifying the information contested. The parties shall
7 have thirty days after such notice to meet and confer and attempt to resolve the issue. If the dispute
8 is not resolved within such period, the party seeking the protection shall have thirty days in which
9 to make a motion for a protective order with respect to contested information. Information that is
10 subject to a dispute as to whether it is properly designated shall be treated as designated in
11 accordance with the provisions of this Order until the Court issues a ruling.

12 14. Inadvertent failure to designate any material "Confidential" shall not constitute a
13 waiver of an otherwise valid claim of confidentiality pursuant to this Order, so long as a claim of
14 confidentiality is asserted within fifteen days after discovery of the inadvertent failure. At such
15 time, arrangements shall be made by the parties to designate the material "Confidential" in
16 accordance with this Order.

17 15. This Order shall be without prejudice to the right of any party to oppose production
18 of any information or object to its admissibility into evidence.

19 16. When any counsel of record in this Lawsuit or any attorney who has executed a
20 Confidentiality Agreement becomes aware of any violation of this Order, or of facts constituting
21 good cause to believe that a violation of this Order may have occurred, such attorney shall report
22 that there may have been a violation of this Order to the Court and all counsel of record.

23 17. Within thirty days after the termination of this Lawsuit (whether by dismissal or final
24 judgment), all Confidential Material (including all copies) shall be returned to counsel for the
25 designating party. In addition, counsel returning such material shall execute an affidavit verifying
26 that all Confidential Material produced to such counsel and any subsequently made copies are being
27 returned in their entirety pursuant to the terms of this Order. Such a representation fully
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1 contemplates that returning counsel has: (1) contacted all persons to whom that counsel
2 disseminated Confidential Material, and (2) confirmed that all such material has been returned to
3 disseminating counsel.

4 18. After the termination of this Lawsuit, the provisions of this Order shall continue to be
5 binding and this Court shall retain jurisdiction over the parties and any other person who has access
6 to documents and information produced pursuant to this Order for the sole purpose of enforcement
7 of its provisions.

8 **IT IS SO STIPULATED:**

9 Dated this 23rd day of September, 2022.

Dated this 23rd day of September, 2022.

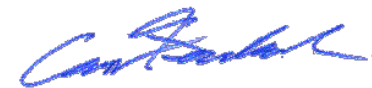
10 **WILSON, ELSER, MOSKOWITZ,**
11 **EDELMAN & DICKER LLP**

12 /s/ Sam Maralan
13 Sam Maralan
14 3080 Bristol Street, Suite 630
15 Costa Mesa, CA 92626
16 *Plaintiff In Proper Person*

/s/ Elisa L. Wyatt, Esq.
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*Attorneys for Defendant Nevada Property 1 LLC
d/b/a The Cosmopolitan of Las Vegas*

19
20 **ORDER**

21 IT IS SO ORDERED.

22 

23
24 Cam Ferenbach
United States Magistrate Judge

25 DATED 9-26-2022
26 _____

EXHIBIT A**CONFIDENTIALITY AGREEMENT**

I, _____, affirm that I have read the foregoing Stipulation and Order to Protect Confidential Materials and Information entered in *Sam Maralan v. Nevada Property I LLC*, Case No. 2:21-cv-0220-CDS-VCF (“Protective Order”), currently pending before the United States District Court for the District of Nevada (“District Court”), governing the documents produced by the parties in this case. I have read the Protective Order governing documents produced by the parties in this case. I understand its terms and agree to be bound by the terms of the Protective Order. I understand that my duties under the Protective Order will survive the termination of this case and that failure to comply with its terms may result in the District Court imposing sanctions on me. I consent to personal jurisdiction of the District Court for the purpose of enforcing the Protective Order.

I hereby affirm under the pains and penalties of perjury that the foregoing is true and correct to the best of my knowledge and belief.

DATED this _____ day of _____, 202__.

Signature

Printed Name